

**CITY COUNCIL
ATLANTA, GEORGIA**

**AN ORDINANCE BY COUNCILMEMBERS CLETA WINSLOW,
MICHAEL JULIAN BOND, VERN MCCARTY, JIM MADDOX,
DERRICK BOAZMAN, SHERRY DORSEY, AND DOUG ALEXANDER**

AS SUBSTITUTED BY FULL COUNCIL

00-O-1557

AN ORDINANCE AUTHORIZING THE MAYOR ~~ON~~ BEHALF OF THE CITY OF ATLANTA TO EXECUTE AN AGREEMENT WITH CHASTAIN VENTURES, A GEORGIA JOINT VENTURE COMPOSED OF THE ROBERT W. WOODRUFF ARTS CENTER, INC., ON BEHALF OF THE ATLANTA SYMPHONY ORCHESTRA, AND CONCERT / SOUTHERN CHASTAIN PROMOTIONS, A GEORGIA JOINT VENTURE CONSISTING OF SOUTHERN PROMOTIONS, INC., AND HIGH COTTON, INC., BOTH OF WHICH ARE GEORGIA CORPORATIONS, FOR THE PURPOSE OF AMENDING AND RENEWING THAT CERTAIN LEASE/MANAGEMENT AGREEMENT DATED DECEMBER 21, 1990, FOR THE LEASE AND MANAGEMENT OF THE CHASTAIN PARK AMPHITHEATER, AND FOR OTHER PURPOSES.

WHEREAS, the City owns a public entertainment facility located in Chastain Park and known as the Chastain Park Amphitheater; and

WHEREAS, the Chastain Park Amphitheater is a limited-use facility located in a residential neighborhood, where special conditions and restraints dictate a very specialized usage and understanding of the facility; and

WHEREAS, the operational policies and procedures with respect to the facility must be consistent with, and sensitive to, the special nature of the facility; and

WHEREAS, it is the policy of the City of Atlanta to administer a program of municipal support of the arts; and

WHEREAS, the present contract with Chastain Ventures, a Georgia joint venture composed of the Robert W. Woodruff Arts Center, Inc., on behalf of the Atlanta Symphony Orchestra, and Concert / Southern Chastain Promotions, a Georgia joint venture consisting of Southern Promotions, Inc., and High Cotton, Inc., both of which are Georgia corporations, for the lease and management of Chastain Park Amphitheater, will expire on December 31, 2000; and

WHEREAS, the City of Atlanta and Chastain Ventures desire to amend and renew the lease / management agreement for an additional ten (10) years, with the option to renegotiate and renew for two additional five(5)-year terms:



NOW, THEREFORE, IT IS ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

Section 1: THAT the Mayor be, and he hereby is, authorized on behalf of the City of Atlanta to execute a Renewal Agreement with Chastain Ventures, a Georgia joint venture composed of the Robert W. Woodruff Arts Center, Inc., on behalf of the Atlanta Symphony Orchestra, and Concert / Southern Chastain Promotions, a Georgia joint venture consisting of Southern Promotions, Inc., and High Cotton, Inc., both of which are Georgia corporations, for the purpose of amending and renewing that certain lease / management agreement dated December 21, 1990, for the lease and management of the Chastain Park Amphitheater.

Section 2: THAT the term of the Agreement as amended (the "Renewal Agreement for Chastain Amphitheater") shall commence upon the expiration of the present lease on December 31, 2000, that is, on January 1, 2001, and be for a period of ten (10) years, expiring on December 31, 2010, with the option to renew upon renegotiation of terms for two additional five-year terms commencing upon January 1, 2011, and January 1, 2016, respectively.

Section 3: THAT the terms and conditions of the Renewal Agreement for Chastain Amphitheater shall be materially and substantially in the same form as those in the proposed "Renewal Agreement for Chastain Amphitheater" attached hereto as "Exhibit A" hereto.

Section 4: THAT all ordinances and resolutions in conflict herewith are hereby repealed for purposes of this Ordinance only, and only to the extent of said conflict.

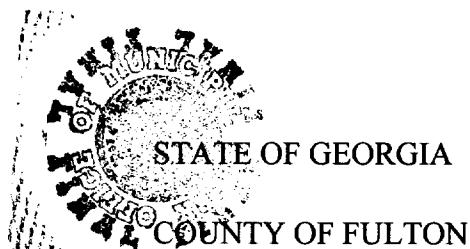
A true copy,



Deputy Clerk

ADOPTED as amended
APPROVED by the Mayor

December 4, 2000
December 6, 2000



RENEWAL AGREEMENT FOR CHASTAIN PARK AMPHITHEATER

This Renewal Agreement, made and entered into this ____ day of _____, 2000, to be effective January 1, 2001, by and between the CITY OF ATLANTA, a municipal corporation of the State of Georgia, hereinafter referred to as the "City," and CHASTAIN VENTURES, hereinafter referred to as the "Venture," a Georgia joint venture consisting exclusively of ROBERT W. WOODRUFF ARTS CENTER, INC., a Georgia non-profit corporation, on behalf of ATLANTA SYMPHONY ORCHESTRA, a division thereof, and CONCERT / SOUTHERN CHASTAIN PROMOTIONS, a Georgia joint venture consisting of SOUTHERN PROMOTIONS, INC., and HIGH COTTON, INC., both of which are Georgia corporations:

WITNESSETH

WHEREAS, the City owns a certain public entertainment facility located in Atlanta, Georgia, known as Chastain Park Amphitheater, more particularly described in Exhibit "A" hereto, hereinafter referred to as the "Facility"; and,

WHEREAS, the Facility is a limited-use facility located within a public park known as Chastain Park, which is itself located in a residential community, where special conditions and restraints dictate a very specialized usage and understanding of the Facility; and,

WHEREAS, the policies and operational procedures with respect to the Facility must be consistent with and sensitive to the special nature of the Facility and to the surrounding neighborhood; and,

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



WHEREAS, it is the policy of the City to administer a program of municipal support of the arts;
and,

WHEREAS, the parties hereto desire to enter into a Renewal Agreement for the operation of the Facility including, but not limited to, leasing the Facility for the presentation of performances by the Atlanta Symphony Orchestra and guest performers presented by the Atlanta Symphony Orchestra, for the use of the Facility by Concert / Southern Chastain Promotions, and other presenters and promoters, for ticket sales for all or a portion of performances, for operation of concessions at the Facility and for the overall management of the Facility; and,

WHEREAS, the City and the Venture have an existing Agreement for the lease and management of the Facility, which Agreement expires on December 31, 2000, and,

WHEREAS, pursuant to Paragraph 16 of said existing Agreement the parties have the option to renegotiate and renew the Agreement in good faith, and therefore now do renew and extend the Agreement upon the renegotiated terms and modifications set forth herein in this Renewal Agreement (hereinafter referred to as the "Renewal Agreement"), and,

WHEREAS, an Ordinance adopted by City Council on the ____ day of _____, 2000, and approved by the Mayor on the ____ day of _____, 2000, attached hereto as Exhibit "B", authorized the Mayor to enter into a contract with the Venture for the lease of the Facility;
and,

WHEREAS, this Renewal Agreement is authorized as to the Robert W. Woodruff Arts Center, Inc., by Exhibit "I"; as to Concert / Southern Chastain Promotions, by Exhibit "J"; as to High Cotton, Inc., by Exhibit "K"; and as to the Venture by Exhibit "L":



THEREFORE, in consideration of the mutual promises between the parties set forth below, the City and the Venture agree as follows:

1.

LEASE

The City leases the Facility exclusively to the Venture upon the terms and conditions herein contained in this Renewal Agreement, for an additional term of ten (10) years, commencing on January 1, 2001, and terminating on December 31, 2010. Provisions for extension of this additional term are contained below.

2.

DEFINITION OF SEASON;
LIMITATION ON EVENTS

The "Season" for the Facility shall be defined as commencing on the Friday before the Monday on which the Memorial Day holiday is observed, and ending on the Labor Day holiday. The "Pre-Season" shall commence on April 1 and terminate on the day preceding the commencement of the Season.

The "Post-Season" shall commence on the day after the Season terminates and shall terminate on October 31. The Venture, shall, at its discretion, present events at the Facility subject only to the following limitations:

- (a) During the Season, the total number of events presented at the Facility in any week (Monday through Sunday) shall not exceed four (4), except that during four (4) weeks of the Season, the total number of events in said weeks shall not exceed five (5)



although there may be no more than four (4) consecutive nights of events under any circumstances. At least one Friday or Saturday night per month during the months of June, July and August shall either not be used for events or shall be used for an all-orchestral event, and two (2) additional Friday or Saturday nights during said three-month period shall not be used for events presented at the Facility of any nature. During the period prior to Memorial Day and during the period after Labor Day each Season, no events shall be presented on “school nights” as determined by the Atlanta public school system, unless such event ends no later than 7:00 p.m. A “school night” is defined as a night on which the following calendar day is a school attendance day for students.

- (b) During the Pre-Season and Post-Season, there shall be permitted two (2) events per week, which shall take place on a Friday or a Saturday night, or on a Sunday afternoon but terminating no later than seven o'clock (7:00) p.m.; provided, however, that during the month of April there shall be permitted only one (1) such event per week. During each of the months of May, September and October, at least two (2) weekend nights (Friday and/or Saturday) shall not be used for events. During the month of October there shall be no more than four (4) events in total.
- (c) The City shall have the right to exempt from those nights otherwise available for presentations hereunder, a maximum of five (5) nights, which shall thereupon not be available for events pursuant to this Renewal Agreement. Said exemption shall not be effective unless the City shall have delivered written notice thereof to the Venture no



less than one hundred and eighty (180) days prior to the dates in question. The exempted dates shall be used exclusively for City-sponsored cultural events, or for such City-sponsored events the net proceeds of which shall be turned over to a non-profit entity endorsed by the City. The City shall be treated as a sublessee of the Venture with regard to said dates, except that the City shall pay no rent for said dates.

- (d) The total number of events presented at the Facility during a calendar year shall not exceed sixty-seven (67), which shall comprise those events presented by the Venture plus those events presented by the City pursuant to subparagraph (c) above.
- (e) The Venture shall publish and cause to be posted in a prominent location at the box office at the Facility, which shall be the glass case for posting in said box office, a list of those dates upon which events will be presented according to the following schedule:
 - i ASO "All Orchestral" nights established and notification served by April 1st of each year.
 - ii Other events:
 - April 1 notification for all events booked for the year as of said date, and not less than four (4) weeks notice for any performance added to said schedule. If an event previously scheduled is subject to a subsequent date change, not less than two (2) weeks notice of said change will be provided, and said notice shall further be given within twenty-four (24) hours of the date the Venture, or either of its partners, becomes aware of said change.
 - iii At all times during the season, beginning with the initial schedules furnished on



April 1 and continuing with each change in the schedules during the season, the Venture shall post and shall furnish the City and the Chastain Park Civic Association updated schedules which are consolidated so as to show every event scheduled at the Facility on a chronological basis.

In addition to posting the notices as described above, the Venture at the same time will cause any such notice to be mailed to the City and sent by facsimile transmission to the President of the Chastain Park Civic Association.

- (f) The maximum occupancy of the Facility at any time is 6,900 seatholders (whether paid or complimentary), subject to approval by the Fire Marshal as to seating plans. The Venture shall submit to the City's Fire Marshal for approval two (2) separate seating plans, which when approved by the Fire Marshal shall govern the seating at events in the Facility. The first seating plan shall govern those concerts done by the Atlanta Symphony Orchestra. The second seating plan shall govern those concerts done by Concert / Southern Chastain Promotions, and its sublessees. As the result of such approvals, the maximum occupancy allowed may be less than 6,900 seatholders (whether paid or complimentary), but in no event shall occupancy be greater than 6,900 seatholders (whether paid or complimentary).
- (g) In the event that the Venture or either partner in the Venture or any sublessee of the Venture violates the provisions of of subparagraphs (a), (b), (d) or (f) of this paragraph 2, the offending party shall pay a fine according to the following schedule:

Five Thousand Dollars (\$5,000) for the first violation of each of said



subparagraphs by said party during a calendar year;

Seven Thousand Five Hundred Dollars (\$7,500) for the second such violation during a calendar year; and

Ten Thousand Dollars (\$10,000) for the third and any such subsequent violations during said calendar year.

Such fines shall be paid by the Venture within seven (7) days of notification of such violation by the City. Any such amounts shall be held by the City in a dedicated fund and expended solely for repairs and improvements to Chastain Park, including the Facility, including, without limitation, to fund the traffic study required by Paragraph 4(h) herein, and to make other improvements to Chastain Park and the Facility, as determined by the City in its discretion. Should a promoter or sublessee of the City violate any of said provisions on the dates reserved to the City pursuant to subparagraph (c) above, the promoter or sublessee shall be subject to the same fines.

- (h) In the event that either partner in the Venture or any sublessee thereof commits more than three (3) violations of the provisions of this Paragraph 2 during any one calendar year, such shall be an event of default by the partner (the "Defaulting Partner") or sublessee which has committed the violations, but shall not be an event of default by the Venture. Upon the occurrence of such event of default the City shall have the right to terminate the Defaulting Partner's interests in this Renewal Agreement or the defaulting sublessee's interests in any sublease in accordance with Paragraph 17 herein.



3.

RENTAL FEE

- (a) The Venture shall pay to the city as rent for the initial ten-year renewal term and for the two optional five-year periods thereafter, if the options are exercised, the following sums for each year of said term, payable by November 15 in each such year:

Years	Annual Rent
2001-2005	\$225,000
2006-2010	\$250,000
2011-2015	\$275,000
2016-2020	\$300,000

- (b) In addition to the amounts denominated as rent in subparagraph 3(a) above, the Venture shall pay to the City rent calculated as the following percentage of an amount equal to Two Dollars (\$2.00) multiplied by the number of seats sold to events (excluding any seats sold to City-sponsored events) presented during each such calendar year of the initial renewal term (2001-2010) and any optional renewal terms which are effective thereafter:

2001: 25%	2003: 40%
2002: 30%	2005 and following: 50%

The City shall hold all amounts received by it pursuant to this paragraph 3 (b) and to paragraphs 2(g), 7(d), and 19 hereof in a dedicated fund, the principal and earnings of which shall be expended solely for repairs and improvements to Chastain Park, including the Facility, including, without limitation, to fund the traffic study required by



Paragraph 4(h) herein, and to make other improvements to Chastain Park and the Facility, as determined by the City in its discretion, in accordance with Paragraph 2(g) above.

- (c) In addition to the amounts denominated as rent in subparagraph 3(a) above, and in addition to the amounts denominated for the dedicated fund in subparagraph 3(b) the Venture shall pay to the City the sum of One Dollar (\$1.00) multiplied by the number of seats sold to events (excluding any seats sold to City-sponsored events) presented during each such calendar year of the initial renewal term (2001-2010) and any optional renewal terms which are effective thereafter. The additional amounts paid under this subsection 3(c) shall be held by the City in a dedicated trust account to be used solely for the purposes of studying and evaluating sound and noise control problems at the Facility, and for improving sound control systems at the Facility, in order better to protect the peace and enjoyment of citizens residing in the vicinity of the Facility. This fund shall be separate and distinct from the fund established in subparagraph 3(b) above.
- (d) All payments due under this Paragraph 3 shall be made no later than November 15 following each said Season, and shall be accompanied by a certified statement reflecting the numbers of tickets sold, and Venture shall maintain for a period of three (3) years from said date a certified box office statement and ticket manifest for each said performance for audit by the City.



The City shall, within thirty (30) days of the submission to it of the information specified above at the end of each year's concert season, provide to the Chastain Park Civic Association a comprehensive accounting of the funds paid by the Venture pursuant to this Renewal Agreement, together with a copy of the certified statement from the Venture reflecting the number of tickets sold, certified box office statement and ticket manifest. The City will also provide to the Chastain Park Civic Association a summary accounting of the funds paid by the Venture pursuant to the Agreement in effect 1991-present.

4.

RESPONSIBILITY FOR PHYSICAL FACILITY

- (a) The Venture agrees to manage and operate the Facility in a manner consistent with the management principles of professional entertainment facilities and in accordance with existing City and State of Georgia policies, procedures, laws and ordinances. The Venture will be responsible for repairs to the Facility resulting from normal wear and tear. Such repairs would include repairs or replacement of fences, gates, vegetation (other than trees), cleaning and painting of the Facility, repair of plumbing fixtures (but not plumbing referred to in subparagraph (b) (3) below), and similar repairs occasioned by the normal use or normal aging of the Facility.
- (b) The City will be responsible for and will bear the expense of structural repairs to, and repair and maintenance of, the Facility and its major supply or support systems (except to the extent that such repairs or maintenance are occasioned by the willful act or



negligence of or incorrect construction by or on behalf of, the Venture) including but not limited to the following: Major structural elements of the Facility, including but not limited to all foundations, exterior walls, retaining walls, masonry walls and other stonework, poured concrete steps, walkways and ceiling/overhangs, back stage slabs and asphalt driveways and pit seating area.

- i. That portion of the electrical supply system commencing at the Georgia Power Company power meters located to the left of Building "A", and terminating the power distribution panels located in Buildings "C" and "D", as said buildings are identified on Exhibit A attached hereto.
- ii. That portion of the plumbing system commencing at the water supply line cutoff valve located in the ground at entrance gate #1 "Pool Road" running underground, up through and terminating at the pressure regulator valves located below Building "F" and in the basement of Building "A"; and from the water supply cutoff valve located approximately at the intersection of Powers Ferry Road and Stella Drive, running underground terminating at the exterior walls of Buildings "H" and "I" and terminating at the water supply cutoff valve located in the ground adjacent to Building "G".
- iii. All underground drainage and sewage pipes beneath the floors and outside the exterior walls of Buildings "A", "F", "G", "H" and "I".



- iv. Stage right garage roof and fascia, shell ceiling roof, and back stage dressing room building roof.
- v. Trees, including the removal, replacement, pruning or trimming thereof where appropriate in the City's discretion.

In addition, the City will maintain in good working condition: Pool Road, Park Road, all parking areas within the boundaries of Chastain Park, including paving, lighting, drainage, signage and all other repairs and maintenance necessary for the unimpeded use of the Facility.

(c) In the event that the City is required to make repairs or provide replacements pursuant to this paragraph 4 and has failed to do so:

- i between March 20 and October 31, within ten (10) days after written notice of then need therefor to the person designated in paragraph 23 below, (or in the event said repairs cannot, for reasons beyond the City's control, be completed within said ten (10) day period, if the City has failed to commence said repairs and diligently pursue them to completion) or
- ii between November 1 and March 19, within a reasonable time after written notice to the person designated in paragraph 23 below, so as to ensure completion by the succeeding April 1,

the Venture shall be authorized to make said repairs at its own expense in lieu of the City and to deduct the cost thereof (as certified in writing by the Venture to the City) from any amounts due to the City pursuant to paragraphs 3(b) and 19 hereof, and to



the extent that such deductions are insufficient for the cost thereof, the City shall reimburse the Venture therefor from the reserve established as provided in paragraph 3(b).

- (d) In the event that the repairs referred to in paragraph 4(b) above constitute an emergency, as defined in this subparagraph (d), the notice referred to in paragraph 4(c) above shall be modified to require telephonic notice to the person designated in paragraph 23. If immediate repairs can be made by the City, said repairs shall be made; if telephonic contact cannot be made, or if immediate repairs cannot be, or are not, made, the Venture shall have the rights described in paragraph 4(c) above. Written notice of any such event and the repairs undertaken as a consequence shall be provided to the City within a reasonable time. For purposes of this subparagraph, an emergency shall be deemed to exist if there is reasonable cause to believe that the Venture or its sublessees will suffer a loss of income or be exposed to costs or liability as a result of an event or condition requiring said repairs, resulting, for example, from restriction of access to the Facility, cancellation of a scheduled performance or rehearsal or endangerment of persons or property, which cannot be avoided except by immediate attention or repair.
- (e) The Venture shall be responsible for removal of all trash and litter from the Facility and the immediately surrounding area, including parking lots and street parking areas on Powers Ferry Road, Park Drive, Pool Road, Dupre Road and Wieucca Road within twelve (12) hours of the conclusion of each event presented at the Facility.



The Venture shall permit explosive fireworks to be detonated only under competent supervision and as part of a performance at the Facility and on no more than one (1) occasion each year, which shall be the Independence Day holiday concert.

- (g) The Venture shall not permit commercial displays outside the Facility. Neither the City nor the Venture shall permit the sale of merchandise or food outside the Facility; nor shall they permit the construction or maintenance of temporary structures, except as may be necessary and permitted by the Bureau of Buildings for the purpose of facilitating approved construction, renovations or repairs to the Facility; nor shall they permit the use of vehicles or booths outside the Facility for promotional displays or purposes of any kind. All such sales or promotions shall be confined solely to the interior of the Facility.
- (h) The City shall engage a traffic consultant to perform a traffic study for the area surrounding the Facility, which study will attempt to identify ways to reduce traffic intrusion and impact upon the neighborhood. Specifically, the study will explore the effectiveness of a shuttle system which would utilize off-site parking.

5.

MANAGEMENT AND OPERATIONS

The Venture shall manage and operate the Facility for the purpose of subleasing the Facility to entities which will present cultural and/or popular programs of entertainment, and which may arrange for sponsorship for said performances for their own accounts. The Atlanta Symphony Orchestra and Concert/Southern Promotions shall be the primary entities to whom the Facility shall be subleased. The



Venture shall evaluate all relevant factors, including the City's valid minority business goals, the Venture's prior experience with, and the fiscal responsibility and references of, prospective sublessees in determining, in the sole discretion of the Venture, the other entities to whom the Facility may be subleased.

The Venture shall have the sole and exclusive authority to manage and operate the Facility during the term of this Renewal Agreement. The Venture shall have the responsibility and the authority to hire and fire its personnel for said purposes, and to contract with other entities to provide services either necessary or desirable therefor, including the provision of financial, custodial, security, parking supervision, maintenance, repair, technical support and other services. The Venture shall be responsible for obtaining and maintaining all operating supplies, including tables and chairs for the Facility.

The Venture will engage a sufficient number of traffic police to control the flow of traffic at all major intersections in and around Chastain Park beginning one and one-half (1½) hours before any scheduled starting time for a performance and continuing until the commencement thereof, and beginning again at the conclusion of each performance and continuing for on (1) hour thereafter.

6.

MINORITY /FEMALE BUSINESS ENTERPRISE GOALS

See Appendix A - Equal Opportunity Policy Statement. The City and its Office of Contract Compliance will monitor the efforts of the Venture to meet the goals identified in Appendix A and cooperate to insure that the enterprises identified to meet these goals are legitimate minority enterprises.



7.

SOUND OPERATING PRINCIPLES

- (a) The City has installed a digital delay speaker system, which is in place and utilized as the “house” delay system for the Facility. The Venture shall require each of its partners and all sublessees and performers to use said “house” delay system for sound augmentation and speaker system positions as the exclusive such system in all performances at the Facility. The interim sound level for the 2001 Season shall be as specified in subparagraph (c) below. A permanent sound level on the dBa and dBc scales for the remainder of the term of this Renewal Agreement shall be developed over the course of studies done by qualified sound consultants and acoustical engineers throughout the 2001 Season. The consultants and acoustical engineers shall make a final written report with their recommendations to the City (both administration and Council). Final selection of the system for sound remediation techniques shall be approved by Council by ordinance. The parties, in any event, agree to amend this Renewal Agreement so as to reflect the permanent sound level and to implement remediation no later than March 31, 2002.
- (b) The maximum number of hours during which performance level sound, including sound checks, rehearsals, live or recorded performances, and dinner music, may be emitted from the Facility shall be four (4) hours per day. Such performance level sound may not be permitted at the facility before the hour of two o’clock (2:00) p.m. on any given day, except under the circumstance of inclement weather as provided in the following



sentence of this subparagraph. No performance shall continue past the hour of eleven o'clock (11:00) p.m., unless the starting time is delayed due to inclement weather, and only for such time as the starting time is delayed by such weather, and in no event past the hour of 12:30 a.m. of the following morning.

- (c) As an interim measure for the 2001 Season only, the Venture will not permit sound from the Facility to exceed an Equivalent Sound Level ("LEQ") of 85 dBa as measured over an eight-minute period from the current point where the sound measurement is taken. The LEQ shall be measured with a precision integrating sound level meter that meets Type 1 requirements as defined by ANSI S1.4 - American National Standard Specifications for Sound Level Meters. The sound level meter shall be calibrated in accordance with the recommendations from the manufacturer. The measurement procedures shall be in conformance with the requirements of ANSI S1.13 - American National Standard Methods for the Measurement of Sound Pressure Levels. The sound meter and the calibrator shall be owned and operated by the City. The City shall hire, or contract with, a fully-qualified sound engineer or consultant ("Sound Monitor") to monitor sound levels in accordance with this subparagraph, and the Sound Monitor shall file a report with the Bureau of Cultural Affairs on the business day next following each event at the Facility. The Bureau of Cultural Affairs will provide copies of such reports promptly to the Chastain Park Civic Association.
- (d) In the event that the Venture, either of its partners, or any sublessee violates the restrictions on (i) maximum decibels, or (ii) maximum duration of live performance



sound contained in this Paragraph 7, the City may impose a fine on the offending party according to the following schedule:

For the first performance sponsored by said party in which a violation in a particular category identified in (i) or (ii) above occurs, \$5,000; PROVIDED, that for the 2001 Season only, the fine shall be \$100;

For the second such performance in which a violation in the same category occurs, \$7,500; PROVIDED, that for the 2001 Season only, the fine shall be \$200;

For the third and any subsequent such performance in which a violation in the same category occurs, \$10,000 as to each such performance; PROVIDED, that for the 2001 Season only, the fine shall be \$300.

All fines shall be paid by the Venture within seven (7) days of notification by the City of a violation under this Paragraph 7(d). In the event that either partner in the Venture or any sublessee thereof commits more than three (3) violations of the provisions of this Paragraph during any one calendar year, such shall be an event of default by the partner (the "Defaulting Partner") or sublessee which has committed the violations, but shall not be an event of default by the Venture. Upon the occurrence of such event of default in any Season other than the 2001 Season, the City shall have the right to terminate the Defaulting Partner's interests in this Renewal Agreement or the defaulting sublessee's interests in any sublease in accordance with Paragraph 17 herein. Provided,



that for the 2001 Season only, while a sound study is being done, there shall be no termination of either partner's interests in this Renewal Agreement or any sublessee's interests in any sublease for violation of this Paragraph 7 regulating sound levels, inasmuch as said 2001 Season shall be utilized for the purpose of evaluating the proper permanent sound levels pursuant to Paragraph 7(a) above. In the event that the City and the Venture disagree as to the applicability of any such penalty, the parties will use the rules of the American Arbitration Association to resolve any such disagreement.

8.

MAJOR PHYSICAL CHANGES

During the term of this Renewal Agreement, neither the City nor the Venture shall make architectural changes to the Facility which would substantially increase the audience seating capacity, nor shall the City make changes which would adversely affect ingress or egress to the Facility, nor shall the City maintain or allow any activity which will interfere with the quiet enjoyment of the Facility by the Venture of the purposes for which this Renewal Agreement is being entered into. The Venture may make structural changes to the Facility to the extent not inconsistent with its architectural integrity, with the prior written consent of the City, which approval will not be unreasonably withheld.

9.

UTILITIES

Venture will be responsible during the term of this Renewal Agreement, for all charges for electricity and water provided exclusively to the Facility.



10.

INSURANCE; DAMAGE OR DESTRUCTION OF FACILITY

- (a) The Venture agrees to obtain and maintain for the term of this Renewal Agreement, insurance of the types and in the amounts indicated on Exhibit "C" hereto, which insurance shall conform with the additional requirements contained in said Exhibit "C". Said insurance shall cover the Facility and any expanded boundaries thereof which are subsequently agreed to by City and Venture in writing.
- (b) For all improvements made to the Facility by contractors engaged by the Venture, either said contractor or the Venture shall furnish a payment bond and a performance bond to the City in conformance with applicable State law and as set forth in Exhibit "C" hereto. The person executing the bonds on behalf of the surety shall file with the bonds a general power of attorney unlimited as to amount and type of bonds covered by such power of attorney and certified by an official of said surety.
- (c) In the event that any portion of the Facility shall be damaged or destroyed by fire or other casualty, Venture shall forthwith give notice thereof to City, and City shall at its sole cost and expense promptly commence and diligently prosecute to completion the repair, restoration, rebuilding, reconstruction or replacement of the damage or destroyed portion of the Facility, such that the condition of the Facility as so repaired, restored, rebuilt, reconstructed or replaced shall be as nearly as possible the condition of the Facility as it existed prior to such damage or destruction. All such repair, restoration, rebuilding, reconstruction or replacement shall be carried out in a first class



workmanlike manner, subject to the prior written approval of Venture, which approval shall not be unreasonably withheld. City's obligation described above in this subparagraph (c), with respect to the first One Hundred Thousand Dollars (\$100,000) expense thereof, is conditioned upon payment by Venture of the amount required to maintain the insurance described in paragraph H of Exhibit "C" hereto. In the event that the Facility is completely destroyed by fire or other casualty, the City may but shall not be obligated to replace or reconstruct the Facility, and in the event that it does not do so, it shall pay the Venture the amount calculated pursuant to paragraph 16(e) below calculated as of the date of said destruction, and the Venture's obligation to make payments to the City pursuant to paragraph 3 or 19 hereof shall also cease as of said date. In the event that the City obtains insurance for the purpose of meeting its obligations pursuant hereto, said insurance shall contain a waiver of subrogation in favor of the Venture.

- (d) Venture's duty and obligation to pay the rent provided for the paragraph 3 of this Renewal Agreement shall abate by reason of any damage or destruction not resulting from the fault of the Venture, its sublessess or contractors which prevents or impedes Venture or its sublessees from conducting events presented at the Facility until City has completed the necessary repairs and Facility is again suitable for such events presented at the Facility.



11.

HOLD HARMLESS

In addition to maintaining the insurance required by Exhibit "C", the Venture agrees to hold the City, its officers, agents and employees harmless from any and all claims against the City or any of them arising out of any act or omission of the Venture, its officers, agents or employees which act or omission was not specified or contemplated by this Renewal Agreement. The Venture further agrees that its agreement to hold the City, its officers, agents or employees or subcontractors of any tier harmless shall not be limited to the limits of the liability insurance required by Exhibit "C".

12.

RIGHTS OF INSPECTION

The Venture agrees that it shall, at all times, grant to persons designated in writing by the City the right of reasonable access to the Facility for the purposes of inspection thereof or maintenance as required by paragraph 4 hereof. Access during performances shall be granted only for emergency repairs and, upon reasonable notice, specified representatives of the Department of Parks, Recreation and Cultural Affairs of the City for purposes of auditing compliance with provision of this Renewal Agreement concerning sound levels or per capita reporting of attendance.

13.

HANDICAPPED ACCESS

The provision for handicapped access specified in Exhibit "D" hereto shall be adhered to by the Venture during the term of this Renewal Agreement.



14.

COMPLIANCE WITH LAWS

As a contractor with the City of Atlanta, the Venture hereby agrees with the City of Atlanta that the Venture shall be bound by the valid laws of the United States, the State of Georgia, and all valid ordinances, regulations, policies and laws of the City of Atlanta, Georgia, including without limitation those having reference to prohibitions against discrimination on the basis of race, religion, color, sex, sexual orientation, sexual transgendered status, or national origin.

Furthermore, all subcontractors, minority and otherwise, shall be required to comply with the Finley Ordinance, as codified in Article L of the Atlanta City Code, attached hereto as Exhibit "E".

15.

NO AGENT OR BROKER

The Venture warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Venture, to solicit or secure this Renewal Agreement, that it has not paid or agreed to pay any person, company, association, corporation, individual or firm, other than a bona fide employee working for the Venture, any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Renewal Agreement. For a breach or violation of the above warranty, and upon finding after notice and hearing, the City shall have the right to terminate the Renewal Agreement without liability and at its discretion to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.



16.

EXTENSION OF INITIAL TERM; TERMINATION

- (a) The term of this Agreement has been extended from its initial termination date until December 31, 2010; provided, however, that the parties shall have the option to renegotiate and renew this Renewal Agreement for two additional five-year periods, ending on December 31, 2015 and December 31, 2020, respectively, with the increased rent provided for in paragraph 3(a), above, by commencing such renegotiation during the twelve (12) month period in advance of a termination date. In the event said term is not extended on terms substantially as favorable to the Venture as contained in this Renewal Agreement for said initial five-year period, City shall pay Venture, no later than March 31, 2011, the amount calculated under subparagraph 16(e) below.
- (b) This Renewal Agreement may be terminated for cause by the City upon written notice, as provided elsewhere in this Renewal Agreement.
- (c) In the event (i) that this Renewal Agreement is terminated by the City for any reason, or (ii) that the performance of this Renewal Agreement is prevented by causes beyond the control of the Venture or by order of any court, or as a result of the imposition of laws or ordinances increasing ticket surcharges or parking fees without the written consent of the Venture, the City shall reimburse the Venture within thirty (30) days for the percentage of the amount determined in accordance with subparagraph (e) of this paragraph 16.



In the event that the Venture determines in its sole discretion that the economic consequences of continuing as a party to this Renewal Agreement prohibit the Venture from meeting its financial goals, the Venture may cancel this Renewal Agreement as of any succeeding December 31 by providing written notice thereof to the City no later than the September 30 immediately prior thereto. The Venture will, in good faith, endeavor to notify the City as soon as practicable if it is contemplating terminating this Renewal Agreement pursuant to this subparagraph (d). Should the City thereafter, within a two (2) year period, be successful in entering into another arrangement for the lease or management of the facilities at Chastain with an entity other than Venture in which the City recognizes an economic gain as a consequence of physical improvements made by the Venture to the facilities hereunder, City will in good faith reimburse Venture in the amount described in subparagraph (e) below calculated as of said date, but not in excess of said economic gain.

- (e) The amount payable to the Venture at any given time pursuant to subparagraphs (a) or (c) of this paragraph 16 shall be the amount of principal remaining at said time under the assumption that the cost of improvements (not to exceed Two Million Dollars [\$2,000,000]) plus interest at the rate actually paid by the Venture for any loans to accomplish said improvements, not to exceed the rate of nine-and-one-half per cent (9½ %) per annum, will be amortized in equal monthly payments over a one hundred, twenty (120) month period, applied first against interest, commencing January 1, 2001. The said 120-month period is based upon an assumption that fifty (50) non-City-



sponsored events will be presented at the Facility during each year. Revenues collected by and allocated to the Venture from the facilities surcharge described in paragraph 3(b) and parking surcharges shall be applied to the unamortized balance first against interest calculated at the rate prescribed above of the unamortized balance with the remaining amounts applied against said balance. Said unamortized portion shall be recalculated as of each December 31 in the event that either more or less than fifty (50) events have been presented at the Facility during the year then ending, to reflect a proportionate increase or decrease in the unamortized total.

The Agreement between the parties for the period 1990-2000 contains a similar paragraph (e). With respect to improvements made by the Venture under this 1990-2000 Agreement, the Paragraph 16(e) of that Agreement (1990-2000) will control. As to funds utilized by the Venture for Improvements under this Paragraph 16(e) in the Renewal Agreement for capital improvements done on or after January 1, 2001, the new terms of the above Paragraph 16(e) (Renewal Agreement) shall control.

17.

DEFAULT; NOTICE; CURE

- (a) The following events shall constitute events of default by either party (the "Defaulting Party") under this Renewal Agreement: (i) if the Defaulting Party shall fail to make any payment required to be made by such party hereunder within ten (10) days after the due date of such payment; (ii) if the Defaulting Party shall violate or breach, or shall fail to fully and completely observe, keep, satisfy, perform and comply with any agreement,



term, covenant, condition, requirement, restriction or provision of this Renewal Agreement (other than the payment of money), and shall not cure such failure within (30) days after the other party (the "Non-Defaulting Party") gives the Defaulting Party written notice thereof in accordance with paragraph 23 hereof, or, if such failure shall be incapable of cure within thirty (30) days, if the Defaulting Party shall not commence to cure such failure within such thirty (30) day period and continuously prosecute the performance of the same to completion with due diligence; or (iii) if the Defaulting Party shall become or be declared or adjudicated bankrupt or insolvent or be unable to pay its debts as they mature. PROVIDED, that as to (1) those provisions of this Renewal Agreement pertaining to the scheduling and number of events in Paragraph 2 herein; and (2) those provisions pertaining to sound operating principles in Paragraph 7 herein, a default under said provisions shall be governed by the terms of subparagraph 2(h) or subparagraph 7(d), respectively.

- (b) Upon the occurrence of any event of default, the Non Defaulting Party may pursue any one or more of the following remedies, separately or concurrently or in any combination, without any notice (except as specifically otherwise provided herein) or demand whatsoever and without prejudice to any other remedy which it may have for any amounts payable by the Defaulting Party: (i) terminate this Renewal Agreement effective at the end of the current calendar year by giving the Defaulting Party written notice of termination by the end of such year, PROVIDED that in the case of violations of those provisions of this Renewal Agreement pertaining to the scheduling and number



of events in Paragraph 2 herein; or those provisions pertaining to sound operating principles in Paragraph 7 herein, the City may only terminate the Defaulting Partner's interests in this Renewal Agreement or the defaulting sublessee's interests in any sublease, as the case may appear; and (ii) the Non-Defaulting Party may take such actions as may be necessary or appropriate to perform the obligations which the Defaulting Party is required to but has failed to perform under the terms of this Renewal Agreement, in which event the Defaulting Party shall reimburse the Non-Defaulting Party on demand for any expenses, including, without limitation, reasonable attorneys' fees, which the Non-Defaulting Party may incur in thus effecting satisfaction and performance of or compliance with the Defaulting Party's duties and obligations under this Renewal Agreement. PROVIDED, that if the default arises under Paragraph 2(h) or Paragraph 7(d), then the City may terminate only the Defaulting Partner's interests in this Renewal Agreement or the defaulting sublessee's interests in any sublease. The Venture shall amend any agreements it has among its constituent partners or with any sublessees so as to effectuate the requirements of the foregoing sentence. In the event that one of the partners to the Venture has its interests terminated under this provision, then the other partner succeeds to the rights, duties, and interests of the Venture under this Renewal Agreement.

- (c) Non-Defaulting Party's pursuit of any one or more of the remedies stated in subparagraph (b) above shall not preclude pursuit of any other remedy or remedies provided in this Renewal Agreement or any other remedy or remedies provided for or



allowed by law or in equity, separately or concurrently or in any combination. The Non-Defaulting Party's pursuit of any one or more of the remedies provided in this Renewal Agreement shall not constitute an election of remedies, excluding the election of another remedy or remedies, or a forfeiture or waiver of any amount payable under this Renewal Agreement or of any other damages or other sums accruing by Defaulting Party by reason of Defaulting Party's failure to fully and completely keep, observe, perform, satisfy and comply with all of the agreements, terms, covenants, conditions, requirements, provisions and restrictions of this Renewal Agreement.

- (d) To ensure compliance with the provisions of this Renewal Agreement, the Venture shall post a bond in favor of the City in advance of each yearly concert season in the amount of that base portion of the annual rent for the upcoming year specified under Paragraph 3(a) above.
- (e) In the event that the Venture should fail timely to post the bond to insure compliance as provided by Paragraph 17(d) above, or in the event that the Ventures commits four (4) uncured material breaches of this Renewal Agreement in a single calendar year, such shall be an event of default. Upon the occurrence of such event of default the City shall have the right immediately to terminate this Renewal Agreement without liability, notwithstanding any other provisions in this Paragraph in subparagraphs (a), (b), or (c), above.
- (f) Upon the termination of this Renewal Agreement by either party, the Venture and any sublessees shall immediately relinquish possession of the Facility to the City, and upon



the Venture's failure to relinquish possession it shall become a tenant holding over. The City may then make demand for possession and if such is refused, the City may institute dispossessory proceedings in a court of appropriate jurisdiction, in which event the Venture shall continue to be liable for rent for such period of time as it continues to hold possession as a tenant holding over. All rents past due shall be paid to the City or into the registry of the court, and the rent for the then current year shall become immediately due and payable, anything in Paragraph 3 above to the contrary notwithstanding. During the pendency of such dispossessory proceedings the Venture shall continue to pay into the registry of the court any rents accruing after the institution of such proceeding on the first day of each month on a prorated basis for the calendar year.

18.

COMMITMENT TO CAPITAL IMPROVEMENTS

The parties have agreed to an initial, prioritized list of improvements to be made to the Facility, at Venture's expense (not to exceed Two Million Dollars (\$2,000,000)), which improvements shall be completed no later than the end of the fifth (5th) year of the term of this Renewal Agreement.

Amendments to this list, attached hereto as Appendix B, may be agreed to in writing by the Venture and a representative of the City's Department of Parks, Recreation and Cultural Affairs. Title to said improvements shall vest immediately in the City and shall not be subject to any ad valorem taxes. (In order to maintain a consistency of numbering with exhibits to the 1990 Agreement, there shall be no Exhibits "F" or "G" to this Renewal Agreement.)



In the event that the cost of capital improvements made by the Venture within the first five (5) years of the term of this Renewal Agreement shall not equal the sum of Two Million (\$2,000,000) Dollars, then at the end of such first five (5) years, the Commissioner of the Department of Parks, Recreation and Cultural Affairs ("Commissioner") shall have the authority on behalf of the City to enter into an agreement with the Venture whereby the Venture shall be authorized to make further capital improvements during the second five (5) years of the term of this Renewal Agreement. The cost to the Venture of such additional capital improvements shall not exceed the difference between the sum of Two Million Dollars and the amounts expended upon capital improvements during the first five (5) years of the term of this Renewal Agreement. The total cost of capital improvements over the term of this Renewal Agreement, whenever made, shall, for purposes of Paragraph 16(e) herein, all be considered as having been made at the commencement of the term of this Renewal Agreement.

19.

PARKING

The City shall permit the Venture or its agent to manage those City-owned parking lots identified on Exhibit "H" hereto on an exclusive basis on each performance date (commencing three [3] hours prior to the scheduled performance and ending at midnight on said day) for the term of this Renewal Agreement; provided, that in the parking lot nearest the Chastain Horse Stables clubhouse there shall be at all times a minimum of seventy (70) parking spaces reserved to the operators of the Stables for the benefit of patrons of the Stables. The Venture shall pay to the City an amount equal to one-third (33 $\frac{1}{3}$ %) of the gross receipts (net of any applicable sales, use or similar taxes) documented in writing certified by the Venture or its designee from parking on said parking lots. Said amounts shall



paid no later than November 15 of each year. The Venture shall employ parking systems which are of the same quality as those employed during 1990.

The Venture may charge no more than Six Dollars (\$6.00) per event for parking; provided, however, that commencing in 2004, and in each third year of the term of this Renewal Agreement thereafter, the Venture may request the City Department of Parks, Recreation and Cultural Affairs to approve an increase in said rates, and any such approved increase shall be effective without requiring an amendment to this Renewal Agreement or the approval of any other body. Any such amounts received by the City under this paragraph shall be held by the City in a dedicated fund and expended solely for repairs and improvements to Chastain Park, including the Facility, including, without limitation, to make improvements to the sound system, to fund the traffic study required by Paragraph 4(h) herein, and to make other improvements to Chastain Park and the Facility, as determined by the City in its discretion, as provided in Paragraph 2(g) above.

20.

ASSIGNMENT

The Venture shall have the authority to transfer or assign any of its interest or responsibility under this Renewal Agreement with the prior written consent of the City, which consent shall not be unreasonably withheld.

21.

AUDIT

City, at no expense to Venture, shall have the right to inspect and audit at any time during business hours, upon reasonable advance notice and for the applicable retention period required by



governmental authorities (including the requirements of the Internal Revenue Service) having jurisdiction over the Venture or City, all of Venture's income, costs, expenses, correspondence and records as well as vouchers and books of account insofar as they pertain to the performance of Venture's services under this Renewal Agreement.

22.

EXECUTION

It is understood and agreed by the Venture that this Renewal Agreement shall not become binding on the City, and the City shall incur no liability upon same, until this Renewal Agreement has been executed by the Mayor and delivered to the Venture.

23.

NOTICE

All notices required pursuant to the provisions of this Renewal Agreement shall be deemed to have been given as of the date on which deposited in the United States mail with proper postage affixed, certified with return receipt requested, to the parties at the following addresses (or to such other persons or such other addresses as notice shall have been given in accordance herewith):

If to the City:

Commissioner
Department of Parks, Recreation and Cultural Affairs
City of Atlanta
Eighth Floor, City Hall East
675 Ponce de Leon Avenue, N.E.
Atlanta, Georgia 30308

Telephonic notices shall be given to the Director of Bureau of Cultural Affairs at (404) 817-6815.



If to the Venture:

Chastain Ventures
c/o Atlanta Symphony Orchestra
1293 Peachtree Street, N.E.
Atlanta, Georgia 30309

Telephonic notices shall be given to Chastain Ventures at (404) 733-4900.

Notice may also be provided by facsimile transmission (telecopy), confirmed by telecopy receipt, at the following telecopy numbers (or such other number as notice shall have been given in accordance herewith):

If to the City:

(404) XXX-XXXX

If to the Venture:

(404) XXX-XXXX

IN WITNESS WHEREOF, the City and the Venture have caused this Renewal Agreement to be executed by the duly authorized officials, the day and year first above written.

ATTEST:

CITY OF ATLANTA

Municipal Clerk

Mayor (SEAL)

ATTEST:

CHASTAIN VENTURES

Secretary,
Robert W. Woodruff Arts Center, Inc.

by: _____
President, Robert W. Woodruff Arts Center, Inc.
(SEAL).

(Signatures continued on next page)



Secretary,
Concert / Southern Chastain Promotions

by: _____
Concert / Southern Chastain Promotions (SEAL)
Title: _____

Secretary,
Southern Promotions, Inc.

by: _____
For Southern Promotions, Inc. (SEAL)
Title: _____

Secretary,
High Cotton, Inc.

by: _____
For High Cotton, Inc. (SEAL)
Title: _____

APPROVED:

RECOMMENDED:

Commissioner, Department
of Parks, Recreation and Cultural Affairs
City of Atlanta

Chief Operating Officer, City of Atlanta

APPROVED AS TO FORM:

APPROVED:

Sr. Assistant City Attorney

Director, Bureau of Purchasing
And Real Estate

APPROVED AS TO INTENT:

APPROVED AS TO INTENT:

Director, Bureau of Cultural Affairs

Chief Financial Officer
City of Atlanta

(END OF DOCUMENT)



APPENDIX A

EQUAL BUSINESS OPPORTUNITY and EQUAL EMPLOYMENT OPPORTUNITY

POLICY STATEMENT

The City requires all of its Contractors to conduct their business in accordance with applicable laws and regulations. It is the policy of the City of Atlanta to actively promote full and equal business opportunities for minority and female business enterprises through the City of Atlanta's Equal Business Opportunity (EBO) program. It is also the policy of the City of Atlanta to actively promote equal employment opportunities for minority and female workers through the City's Equal Employment Opportunity Program. The purpose of the Equal Business Opportunity and Equal Employment Opportunity Programs is to mitigate the present and ongoing effects of the past and present discrimination against women and minority owned businesses and women and minority workers so that opportunity, regardless of race or gender, will become institutionalized in the Atlanta marketplace. It is important to note that all proponents, without exception, including minority and female owned business enterprises, must comply with the City of Atlanta's EBO and EEO Program requirements.

For this project the City's EBO goals require participation by minority and female firms at the Promotions level. Additionally, the successful entity must have minority and female participation during the proposed construction phase and at the supply and services level throughout this project.

EBO Certification Requirements

Every subcontractor or supplier utilized to meet the City's Equal Business Opportunity goals must be certified by the City or must have an application for certification pending at the time the proposal is submitted. It is the proponent's responsibility to ensure that every subcontractor or supplier utilized to meet the City's Equal Business Opportunity goals is certified by the City or has an application pending with the City's Office of Contract Compliance.

Every business certified as a minority or female owned and controlled business enterprise is provided a letter of certification and is assigned a certification number by the City's Office of Contract Compliance. The certification letter specifically indicates the category or categories in which the business is certified. A business may be certified as an African-American Business Enterprise

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



AABE"), a Female Business Enterprise ("FBE"), an Asian Business Enterprise (ABE"), a Hispanic Business Enterprise ("HBE"), or a Native American Business Enterprise ("NABE"). Certification by the City of Atlanta assures a proponent that the business is a legitimate minority or female owned and controlled business. Businesses that have been certified as both minority and female owned by only be used to satisfy one gender or racial category of the EBO goals.

EBO Goals Monitoring and Reporting Requirements

Your joint venture team will be required to file reports detailing the minority and female participation achieved on a monthly basis, to allow access to records and work sites for monitoring purposes and to meet with the City to review the reported participation.

Part A Goals Statement-Promotions Goal

Your joint venture team must reserve 5 dates for the events promoted by a minority promoter annually throughout the life of the contract. The exact terms and conditions of the relationship of the minority promoter with your venture team must be clearly set out with specific roles and responsibilities.

Part B Goals Statement – Construction Subcontract and Supply Goals

Your venture must agree to meet the following minority and female participation subcontractor and supplier goals, or those goals as adjusted from time to time by the EBO ordinance. Compliance with these goals will be based upon the value of all subcontracts entered into in the fulfillment of part B, construction goals established on this project.

Prior to the start of construction work, your venture must identify certified minority and female subcontractors, the anticipated dollar value of all subcontracts, a description of work and the participation percentages. The specific goals are set forth below:

AABE	30%
FBE	3%
ABE	1%
HBE	3%

Part C Goals Statement – Concessions, Commodities, Supplies & Services

Your venture must agree to meet the following minority and female participation subcontractor and supplier goals, or those goals as adjusted from time to time by the EBO ordinance. Compliance with these goals will be based upon the value of all subcontracts entered into in the fulfillment of part C, concessions, commodities, supplies & services goals established on this project.

EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00



Prior to the start of concessions, commodities and supplies work, your venture must identify certified minority and female subcontractors, the anticipated dollar value of all subcontracts, a description of work and the participation percentages. The specific goals are set forth below:

AABE	30%
FBE	3%
ABE	1%
HBE	3%

Part D Goals Statement – General Services (Parking and Security)

Your venture must agree to meet the following minority and female participation subcontractor and supplier goals, or those goals as adjusted from time to time by the EBO ordinance. Compliance with these goals will be based upon the value of all subcontracts entered into in the fulfillment of part D, general services (parking and security) goals established on this project.

Prior to the start of general services (parking and security), your venture must identify certified minority and female subcontractors, the anticipated dollar value of all subcontracts, a description of work and the participation percentages. The specific goals are set forth below:

AABE	30%
FBE	3%
ABE	1%
HBE	3%

Request for Waiver of Goals

The goals have been carefully established and established with the clear expectation that they may be successfully met by every proponent. The only exception to the requirement that each of the three goals must be met is if a sufficient showing has been made, in accordance with the guidelines set forth in City of Atlanta Code of Ordinances Section 2-1455, to allow the waiver of any portion of the racial and gender goals.¹

Waivers are granted in those limited situations where a proponent has established, with documentary evidence, and explained in great detail, its inability to meet a portion of the goals. The documentary evidence must conform to the guidelines set forth in City of Atlanta Code of Ordinances Section 2-1445.

If requesting a waiver, please indicate with specificity the portion of the racial and gender goals for which the request is being submitted.

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



Atlanta, Ga. Code § 2-1455 (1998). Section 2-1455 provides:

(a) *Waiver.* If the EBO plan does not meet the project goals, the bidder or offeror may seek a partial or total waiver of the project goals. The application for waiver of all or part of the project goals shall include full documentary evidence of the bidder's or offeror's good faith efforts to meet the project goals and why the request for waiver should be granted. The application shall be in writing and submitted as a part of the bid or offer. It should include a narrative, affidavits or exhibits which verify the actions taken by the bidder or offeror to meet the goals.

(b) *Good faith efforts.* The bidder or offeror shall provide the following written and/or documentary evidence of its good faith efforts to meet the recommended goals as part of the EBO plan, and will be evaluated on the evidence:

(1) Copies of written notification to MBEs and FBEs that their interest in the subcontract is solicited;

(2) Evidence of the efforts made to divide the work into economically feasible units in order to increase the likelihood of achieving the stated goals;

(3) Evidence of the efforts made to negotiate with MBEs and FBEs, including, at a minimum:

a. The names, addresses and telephone numbers of the MBEs and FBEs who were contacted;

b. A description of the information provided to MBEs and FBEs regarding the plans and specifications for portions of the work to be performed; and

c. A statement of the reasons why additional agreements with MBEs and FBEs, if needed to meet the stated goals, were not reached;

(4) Evidence of efforts made to assist MBEs and FBEs contracted who need assistance in obtaining bonding and

insurance which the bidder or
EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00



- (5) As to each MBE and FBE contacted which the bidder or offeror considered not to be qualified, a written statement of the reasons for the bidder or offeror's conclusion;
- (6) Written quotes solicited from all MBEs or FBEs seeking subcontract work with prime contractors at the time of the bidding/ and
- (7) A statement with supporting documents and affidavits whether the offeror has used MBE and/or FBE contractors as joint venture partners or subcontractors in past or present private sector contracts in the Atlanta metropolitan statistical area or the state.

Equal Employment Opportunity Requirements

Pursuant to the City of Atlanta Code of Ordinances, Chapter 2, Article X, Division 10, Section 2-1419, the City declares that discrimination based upon race, sex, religion, national origin, age, or handicap is inconsistent with the U. S. Constitution, laws and policies of the United States, the State of Georgia and the City. It is the City's policy to prohibit discrimination, by contractors who do business with the City, against any employee or applicant for employment because of race, sex, religion, national origin, age, or handicap. The City implements this policy by adopting gender and racial work force goals for every contractor performing work for the City.

Your venture will be required to complete Contract Employment Report forms, at which time the appropriate EEO goals will be identified.

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



APPENDIX 1-A

FIRST SOURCE JOBS PROGRAM

The City has established a First Source Jobs Program pursuant to the First Source Jobs Policy attached hereto. The First Source Jobs Program was created to serve as a link between unemployed City residents and City-created employment opportunities. This program requires that the Contractor enter into a First Source Jobs Employment Agreement substantially in the form attached hereto contemporaneously with the execution of the contract with the City committing to hire low-income City residents from the First Source Job Register maintained by the Atlanta Private Industry Council. This register lists low income City residents who have completed a job readiness program or are otherwise ready to fill entry-level jobs. Proponents must submit with the Proposal the list of entry-level jobs, job descriptions, contact representative and other information referenced in the First Source Jobs Information Form attached hereto.

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



SCHEDULE 2

FIRST SOURCE JOBS AGREEMENT

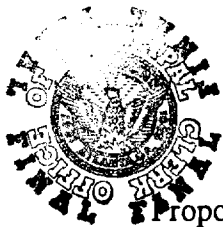
The City of Atlanta requires the immediate beneficiary or primary contractor ("Contractor") for every eligible project to enter into a First Source Job Employment Agreement.

The Contractor hereby agrees to the following terms and conditions:

- The first source for finding employees to fill all entry level jobs created by this [eligible project] will be the First Source Program operated by the City in conjunction with the Atlanta Private Industry Council (First Source Program)
- The contractor will make every effort to fill 50% of the entry level jobs created by this [eligible project] with applicants from the First Source Program
- The Contractor shall make a good faith effort to reach the goal of this First Source Jobs Employment Agreement
- Details as to the number and description of each entry level job must be provided with the proposal
- The Contractor shall comply with the spirit of the First Source Jobs Policy beyond the duration of this agreement and continue to make good faith attempts to hire employees of similar backgrounds to those participating in the First Source Program.

Contractor's Representative

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



SCHEDULE 3

FIRST SOURCE JOBS INFORMATION FORM

Proponent's Name: _____

The following entry-level positions will become available as a result of the above referenced contract with the City of Atlanta:

- 1.
- 2.
- 3.
- 4.
- 5.

Include a job description and all required qualifications for each position listed above.

Identify a Proponent's representative who will be responsible for coordinating with the First Source Jobs Program.

Proponent's Representative's Contact Information

Name _____

Address _____

Telephone # _____

Fax# _____

**EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00**



APPENDIX B

PROPOSED CAPITAL IMPROVEMENTS

Chastain Park Amphitheater

- **Replace stage roof**
- **Reposition and replace downstage steel**
- **Install handicapped access lift**
- **Repair box and pit railings**
- **Replace/repair house lighting**
- **Repair stonework and concrete**
- **Replace fence (add sound absorbing) and gates**
- **Build new box office at Gate 1**
- **Renovate and expand bathrooms at main gates**
- **Build backstage commissary addition and offices**
- **Landscape grounds and parking lots/add lighting in parking lots**
- **New venue/area directional signage**
- **Increase backstage bus/truck parking**
- **Investigate additional parking solutions**

EXHIBIT A to Ord. No. 00-O-1557
as AMENDED and ADOPTED by FULL
COUNCIL 12-04-00

RCS# 2478
12/04/00
11:45 PM

Atlanta City Council

Regular Session

00-O-1557

Agree. with Chastain Ventures for
amending & renewing lease of Chastain

ADOPT *SUBSTITUTE AS AMENDED*

YEAS: 9
NAYS: 5
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

APPROVED

Y McCarty	Y Dorsey	N Moore	B Thomas
Y Starnes	N Woolard	Y Martin.	N Emmons
Y Bond	N Morris	Y Maddox	Y Alexander
Y Winslow	N Muller	Y Boazman	NV Pitts

00-O-1557

RCS# 2479
12/05/00
12:01 AM

Atlanta City Council

Regular Session

OVERRULE CHAIR'S *RULING THAT*
ADOPT *CMBR. MULLER'S NOTICE*
TO RECONSIDER

YEAS: 8
NAYS: 6
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

AT NEXT MEETING
WAS PROPER

Y McCarty	Y Dorsey	N Moore	B Thomas
Y Starnes	N Woolard	N Martin	N Emmons
Y Bond	N Morris	Y Maddox	Y Alexander
Y Winslow	N Muller	Y Boazman	NV Pitts

MOTION CARRIED-
CHAIR WAS
THUS OVERRULED
00-0-1557
STANDS AS
ADOPTED
ON SUBSTITUTE
AS AMENDED

RCS# 2477
12/04/00
11:44 PM

Atlanta City Council

Regular Session

00-O-1557.

Agree. with Chastain Ventures for
amending & renewing lease of Chastain
ADVERSE

YEAS: 5
NAYS: 9
ABSTENTIONS: 0
NOT VOTING: 1
EXCUSED: 0
ABSENT 1

FAILED / DEFEATED

N McCarty	N Dorsey	Y Moore	B Thomas
N Starnes	Y Woolard	N Martin	Y Emmons
N Bond	Y Morris	N Maddox	N Alexander
N Winslow	Y Muller	N Boazman	NV Pitts

00-O-1557

00-0-1537

William W. Johnson
 (Do Not Write Above This Line)

AN ORDINANCE BY
 COUNCIL MEMBER

AN ORDINANCE AUTHORIZING THE MAYOR
 ON BEHALF OF THE CITY OF ATLANTA TO
 EXECUTE AN AGREEMENT WITH CHASTAIN
 VENTURES, A GEORGIA JOINT VENTURE
 COMPOSED OF THE ROBERT W. WOODRUFF
 ARTS CENTER, INC., ON BEHALF OF THE
 ATLANTA SYMPHONY ORCHESTRA, AND
 CONCERT / SOUTHERN CHASTAIN
 PROMOTIONS, A GEORGIA JOINT VENTURE
 CONSISTING OF SOUTHERN PROMOTIONS,
 INC., AND HIGH COTTON, INC., BOTH OF
 WHICH ARE GEORGIA CORPORATIONS FOR
 THE PURPOSE OF AMENDING AND
 RENEWING THAT CERTAIN
 LEASE/MANAGEMENT AGREEMENT DATED
 DECEMBER 21, 1990, FOR THE LEASE AND
 MANAGEMENT OF THE CHASTAIN PARK
 AMPHITHEATER, AND FOR OTHER
 PURPOSES

REFERRED BY OCT 16 2000
 CITY COUNCIL

SUBSTITUTE AS AMENDED

- ☐ CONSENT REFER
☐ REGULAR REPORT REFER
☐ ADVERTISE & REFER
☒ 1st ADOPT 2nd READ & REFER
☐ PERSONAL PAPER REFER

Date Referred 9/18/00

Referred To: Finance Executive

Date Referred 00/00/00

Referred To: Finance 12/14/00

Date Referred

Referred To:

First Reading

Committee _____
 Date _____
 Chair _____
 Referred to _____

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☒ 2nd ☐ 1st & 2nd ☐ 3rd
 Readings
☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED

DEC -- 4 2000

ATLANTA CITY CLERK

Richard A. Johnson

CERTIFIED

DEC 0 4 2000

Richard A. Johnson
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

DEC - 6 2000

APPROVED

MAYOR